

22.08.2022
S/L No.9
KS

C.R.R. 425 of 2006
Raj Bahadur Tamang
-Vs.-
The State of West Bengal

Mr. Abhijit Basu
Mr. Arghya Kamal Das

.....For the Petitioner

Mr. Arijit Ganguly
Mr. Sanjib Kumar Dan

.....For the State

The revisional application was preferred challenging the judgment and order of conviction and sentence dated 09.12.2005 in Criminal Appeal No.1 of 2005 wherein the Learned Additional Sessions Judge, 3rd Court, Darjeeling was pleased to affirm the order of conviction and sentence passed by the Learned S.D.J.M., Darjeeling on 23.02.2005 in connection with G.R. Case No.214 (1) of 2001 under Sections 279/304A of the Indian Penal Code. The Learned Trial Court was pleased to direct the present petitioner to suffer sentence as follows:-

- 1) Fine of Rs.500/- for the offence under Section 279 of the Indian Penal Code, in default, to suffer simple imprisonment for 20 days;
- 2) Rigorous imprisonment for one year with fine of Rs.500/-, in default, simple imprisonment for 20 days for the offence under Section 304A of the Indian Penal Code.

Earlier this Court considered that the incident complained, is of the year 2001 and more than 21 years have passed since the alleged offence was

committed. Ordinarily this Court do not interfere with concurrent findings of fact passed by the Learned Trial Court and the Appeal Court but having regard to the circumstantial change in view of the passage of time which has lapsed in the meantime a direction was passed to deposit a fine of Rs.25,000/-. Subsequently, a report was called for from the Officer-in-Charge, Jorebunglow Police Station. The Officer-in-Charge, Jorebunglow Police Station has submitted a report that the petitioner/Raj Bahadur Tamang has deposited a sum of Rs.25,000/- before the Learned C.J.M., Darjeeling on 16.08.2022.

Having regard to the same, I modify and reduce the sentence to which the petitioner has already undergone during the period of investigation, pendency of trial and appeal.

Consequently, the revisional application is partly allowed.

The de facto complainant/Next Kin of the deceased would be entitled to receive a sum of Rs.25,000/- which has been deposited as fine before the Learned C.J.M., Darjeeling.

On proper application and proof being submitted before the Learned C.J.M., Darjeeling the same may be released in respect of the claimant(s).

With the aforesaid observations, C.R.R. 425 of 2006 is disposed of.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)

